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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,999	03/12/2004	Daniel Lyakovetsky	050704/344077	6861

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EXAMINER

RAPILLO, KRISTINE K

ART UNIT	PAPER NUMBER
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3626

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11/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/798,999	Applicant(s) LYAKOVETSKY, DANIEL	
	Examiner KRISTINE K. RAPILLO	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment submitted September 20, 2008. Claims 1, 9 - 12, and 14 - 16 are amended. Claim 8 is cancelled. Claim 17 is new. Claims 1 - 7 and 9 - 17 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "expired data point" is vague and indefinite. The limitation "expired data point" is interpreted as historical data that has been or will be archived. Claims 2 - 7 and 9 - 17 are rejected for the same reason as above.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1 - 7 and 9 - 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention does not fall into one of the statutory categories: process, machine, manufacture, composition of matter, or an improvement thereof. Adding "embodied on a computer readable medium" to the claim language is a suggestion for how to bring these claims into compliance with 35 U.S.C. 101 because a computer executable program tangibly embodied on a computer readable medium is statutory subject matter.

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NOTE: The following art rejections assume that the subject matters of claims 1 – 7 and 9 - 17 will be amended to recite statutory subject matter. The art rejections are provided herein below for the Applicant's consideration on the condition that the Applicant properly incorporates concrete and tangible elements as discussed above in the rejections under 35 USC § 101 in the next communication sent in response to the present Office Action.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 7 and 9 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) further in view of Doherty et al. (U.S. Publication Number 2004/0220836 A1), herein after Doherty.

In regard to claim 1, McCallum teaches an insurance claim processing system, comprising:

- an agent that converts a data point from a first format into a uniform format, wherein said data point represents data from an insurance claim (column 5, lines 1 – 4; column 6, lines 40 – 46; and column 10, lines 44 - 50). For the purpose of examination, the Examiner interprets an agent as a computer program (software) since it performs the conversion of data;
- a collector that receives said data point in said uniform format and sends said data point to a data store, wherein said data point is a member of a plurality of data points in said uniform format in said data store (column 6, lines 47 – 56 and column 8, lines 7 – 13). For the purpose of examination, the Examiner interprets the data collector as a computer system with a processor; and

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- an analyzer that retrieves said plurality of data points from said data store and produces a metric from said plurality of data points (column 7, lines 6 – 33 and column 8, lines 36 – 52). For the purpose of examination, the Examiner interprets the analyzer to be software on a computer system.

McCallum does not explicitly teach an insurance claim processing system, although McCallum states in the specification that the system described can be used for providing physician data (i.e. diagnosis codes, patient identification) uniformly linked to hospitals, insurance companies, and more (column 6, line 40 through column 7, line 5). However, McCallum teaches a system and method for standardizing a physicians records located at physician's offices, laboratories, hospitals, etc. McCallum teaches a method and system in which data is extracted and converted into a uniform format, sent to a database, and forms a metric (i.e. measure number of patients using the same insurance company).

McCallum fails to teach a system comprising a compressor that identifies one or more expired data points of said plurality of data points in said data store and creates at least one summary associated with the one or more expired data points.

Doherty teaches a system comprising a compressor that identifies one or more expired data points of said plurality of data points in said data store and creates at least one summary associated with the one or more expired data points (paragraphs [0050] and [0055]) where an electronic health information system is disclosed which includes an online health record.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system comprising a compressor that identifies one or more expired data points of said plurality of data points in said data store and creates at least one summary associated with the one or more expired data points as taught by Doherty, within the system of McCallum, with the motivation of providing a tool which enables the user to collectively measure various metrics such as claims processed (paragraph [0056]).

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In regard to claim 2, McCallum and Doherty teach the insurance claim processing system of claim

1. Doherty further teaches a system wherein said analyzer issues an alert if said metric satisfies an alertable condition (paragraph [0069]).

The motivation to combine the teachings of Doherty and McCallum is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 3, McCallum and Doherty teach the insurance claim processing system of claim

1. Doherty further teaches a system wherein said alertable condition is selected from the group consisting of (a) a threshold-based condition, (b) an experience-based condition, and (c) a rule-based condition (Figure 5). Figure 5 illustrates a threshold and rule based condition in that a goal of a 4% error rate is desired, the system calculates/derives the actual percent error, and if greater than 4% issues an alert. An example of an experienced based condition is also illustrated in Figure 4 in that the turn around time completion rate shows a pattern of two physicians who are consistently late, which then prompts an alert.

The motivation to combine the teachings of McCallum and Doherty is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 4, McCallum and Doherty teach the insurance claim processing system of claim

1. Doherty teaches a system wherein said metric is in a form of a data cube (paragraph [0055]).

Doherty's disclosure of an "executive scorecard" reads on a data cube in that an executive scorecard is an array of values (a data cube was defined by the applicant in paragraph [0014] of the specification as an array of values).

The motivation to combine the teachings of McCallum and Doherty is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 5, McCallum and Doherty teach the insurance claim processing system of claim

1. McCallum further teaches a system:

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- wherein said agent is a first agent, and said data point is a first data point (claim 1 of McCallum);
- wherein the insurance claim processing system further comprises a second agent that converts a second data point from a second format into said uniform format (column 6, lines 47 through column 7, line 5),
- wherein said second data point represents data from an insurance claim (column 10, lines 44 – 50), and
- wherein said second format is different from said first format (column 6, line 47 – through column 7, line 5), and
- wherein said collector receives said second data point in said uniform format and sends said second data point to said data store (column 7, lines 6 – 33 and column 8, line 36 – 52).

McCallum does not explicitly teach an insurance claim processing system, although h states in the specification that the system described can be used for providing physician data (i.e. diagnosis codes, patient identification) uniformly linked to hospitals, insurance companies, and more (column 6, line 40 through column 7, line 5). However, McCallum teaches a system and method for standardizing a physicians records located at physician's offices, laboratories, hospitals, etc. McCallum teaches a method and system in which data is extracted and converted into a uniform format, sent to a database, and forms a metric (i.e. measure number of patients using the same insurance company).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a method and system as taught by McCallum as the invention disclosed by McCallum teaches all of the limitations as the applicant's invention. McCallum teaches a system which provides an efficient means for claim processing by enabling all claims submitted, from any number of systems, to 'e in a uniform formation to ensure accurate and reliable information (column 2, lines 43 – 62).

In regard to claim 6, McCallum and Doherty teach the insurance claim processing system of claim 1. Doherty further teaches a system wherein said metric is a first metric in a form of a first data cube having a first set of dimensions, and wherein said analyzer produces a second metric from said plurality of data points in a form of a second data cube having a second set of dimensions (paragraph [0055]).

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There is no functional difference between an analyzer producing a first metric and an analyzer producing a second metric. Thus, regardless of the metric produced, the function of the analyzer remains the same.

The motivation to combine the teachings of McCallum and Doherty is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 7, McCallum and Doherty teach the insurance claim processing system of claim 6. Doherty further teaches a system further comprising a presentation sub-system for sending said first metric and said second metric to a user interface (paragraph [0069]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system further comprising a presentation sub-system for sending said first metric and said second metric to a user interface as taught by Doherty, within the system of McCallum, with the motivation of allowing the user to efficiently review data by providing a communication interface (paragraph [0059] and Figure 2).

In regard to claim 9, McCallum and Doherty teach the insurance claim processing system of claim 8. Doherty further teaches a system wherein said one or more expired data points subsequent to being aggregated by said compressor, are deleted from said data store (paragraph [0069]).

The motivation to combine the teachings of McCallum and Doherty is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 17, McCallum and Doherty teach the insurance claim processing system of claim 1. Doherty further teaches a system wherein said compressor further stores the at least one summary in said data store (paragraphs [0050] and [0055]).

The motivation to combine the teachings of McCallum and Doherty is discussed in the rejection of claim 1, and incorporated herein.

System and storage claims 10 – 16 repeat the subject matter of claims 1 – 7 and 9. As the underlying processes of claims 1 – 7 and 9 have been shown to be fully disclosed by the teachings of McCallum and Doherty in the above rejections of claims 1—7 and 9; as such, these limitations (10 – 16) are rejected for the same reasons given above for claims 1 – 7 and 9 and incorporated herein.

Response to Arguments

8. Applicant's arguments filed September 20, 2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed September 20, 2008.

In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied new passages and new citations to the amended claims. The Examiner notes that the amended limitations were not in the previously pending claims; as such, Applicant's remarks with the regard to the application of McCallum and Doherty are addressed in the above Office Action.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/Robert Morgan/
Primary Examiner, Art Unit 3626